

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ARTHUR HOOVER,
Plaintiff,
vs.

Case No. 2:21-cv-02194-JAD-VCF

FEDERAL¹ FILES COURT,
Defendant.

ORDER

APPLICATION TO PROCEED *IN FORMA PAUPERIS* (ECF NO. 1); COMPLAINT (ECF NO. 3)

Pro se plaintiff Arthur Hoover filed an application to proceed in forma pauperis (IFP) and a “Letter.” ECF Nos. 1 and 3. I liberally interpret Hoover’s letter as his proposed complaint since he did not attach a complaint to his IFP application. I grant Hoover’s IFP application, but I dismiss his complaint without prejudice with leave to amend.

DISCUSSION

Hoover’s filings present two questions: (1) whether Hoover may proceed *in forma pauperis* under 28 U.S.C. § 1915(e) and (2) whether Hoover’s complaint states a plausible claim for relief.

I. Whether Hoover May Proceed In Forma Pauperis

Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action “without prepayment of fees or security thereof” if the plaintiff submits a financial affidavit that demonstrates the plaintiff “is unable to pay such fees or give security therefor.”

Plaintiff’s application to proceed in forma pauperis includes a declaration under penalty of perjury that plaintiff is unable to pay the costs of these proceedings. (ECF No. 1). Plaintiff states in his

¹ Plaintiff appears to have misspelled federal in the case caption.

1 affidavit that he lives on social security disability benefits, that he has no money in his checking
2 account, and that he owns a 1992 Ford Ranger. I grant plaintiff's IFP application.

3 **II. Whether Hoover's Complaint States a Plausible Claim**

4 **a. Legal Standard**

5 Because I grant Hoover's IFP application, I must review Hoover's complaint to determine
6 whether the complaint is frivolous, malicious, or fails to state a plausible claim. 28 U.S.C. §
7 1915(e)(2)(B). Federal Rule of Civil Procedure 8(a)(2) provides that a complaint must contain "a short
8 and plain statement of the claim showing that the [plaintiff] is entitled to relief." The Supreme Court's
9 decision in *Ashcroft v. Iqbal* states that to satisfy Rule 8's requirements, a complaint's allegations must
10 cross "the line from conceivable to plausible." 556 U.S. 662, 680 (2009) (quoting *Bell Atlantic Corp. v.*
11 *Twombly*, 550 U.S. 544, 547, (2007)). Rule 12(b)(6) of the Federal Rules of Civil Procedure provides
12 for dismissal of a complaint for failure to state a claim upon which relief can be granted. A complaint
13 should be dismissed under Rule 12(b)(6) "if it appears beyond a doubt that the plaintiff can prove no set
14 of facts in support of his claims that would entitle him to relief." *Buckey v. Los Angeles*, 968 F.2d 791,
15 794 (9th Cir. 1992).

17 Though "[n]o technical form is required for complaints" (Fed. R. Civ. P. 8(a)), "[a] party must
18 state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of
19 circumstances. ...If doing so would promote clarity, each claim founded on a separate transaction or
20 occurrence...must be stated in a separate count or defense" (Fed. R. Civ. P. 10(b)). The amended
21 complaint must be "complete in itself, including exhibits, without reference to the superseded pleading."
22 LR 15-1. "[A] pro se complaint, however inartfully pleaded, must be held to less stringent standards
23 than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quoting *Estelle*
24 *v. Gamble*, 429 U.S. 97, 106 (1976)). If the Court dismisses a complaint under § 1915(e), the plaintiff
25

1 should be given leave to amend the complaint with directions as to curing its deficiencies, unless it is
 2 clear from the face of the complaint that the deficiencies could not be cured by amendment. *Cato v.*
 3 *United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

4 Federal courts are courts of limited jurisdiction, having subject-matter jurisdiction only over
 5 matters authorized by the Constitution and Congress. U.S. Const. art. III, § 2, cl. 1; e.g., *Kokkonen v.*
 6 *Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 128 L. Ed. 2d 391 (1994). To
 7 establish subject matter jurisdiction pursuant to diversity of citizenship under § 1332(a), the party
 8 asserting jurisdiction must show: (1) complete diversity of citizenship among opposing parties and (2)
 9 an amount in controversy exceeding \$75,000. 28 U.S.C. § 1332(a). *Habacon v. Emerald Grande, LLC*,
 10 No. 2:19-cv-00165-MMD-PAL, 2019 U.S. Dist. LEXIS 63163, at 3-4 (D. Nev. Apr. 12, 2019).

11 A complaint is frivolous if it is based on a nonexistent legal interest or delusional factual
 12 scenario. *Neitzke v. Williams*, 490 U.S. 319, 327-30, 109 S. Ct. 1827, 104 L. Ed. 2d 338 (1989). A
 13 “finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or
 14 the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.”
 15 *Denton v. Hernandez*, 504 U.S. 25, 33, 112 S. Ct. 1728, 118 L. Ed. 2d 340 (1992) (dismissal also
 16 appropriate when the facts alleged are “clearly baseless,” “fanciful,” “fantastic,” and/or “delusional.”)
 17 Federal courts routinely dismiss allegations regarding broad-based conspiracies of surveillance and
 18 harassment as factually frivolous under § 1915 where these allegations are fanciful, fantastic, delusional,
 19 irrational, or wholly incredible. See, e.g., *Johnson v Young Money*, 745 Fed. App’x 441, 442 (3d Cir.
 20 2018) (affirming dismissal of complaint as fanciful or delusional where it alleged that musicians were
 21 making music about and harassing the plaintiff); *Barnes-Velez v. Fed. Comm’n Comm’n*, Civ. A. No.
 22 18-634, 2018 U.S. Dist. LEXIS 149115, 2018 WL 4178196, at 1-3 (M.D. Fla. [722] May 8, 2018),
 23 report and recommendation adopted, 2018 U.S. Dist. LEXIS 148424, 2018 WL 4153937 (M.D. Fla.
 24
 25

1 Aug. 30, 2018) (dismissing pro se plaintiffs complaint as frivolous under § 1915(e)(2)(B)(i) and
 2 concluding that the complaint made "fanciful, fantastic, and delusional" allegations against the FCC, the
 3 FBI, and the NSA asserting that defendants wiretapped plaintiffs home, including her cell phone and
 4 home phone, illegally hacked her computer and tablet, installed cameras in her home, tampered with her
 5 mail, and disclosed the information obtained from these efforts to third parties); *Morgan v Unknown FBI*
 6 *Agents*, Civ. A. No. 16-495, 2016 U.S. Dist. LEXIS 185830, 2016 WL 11586214, at 2-3 (W.D. Tx. May
 7 3, 2016), report and recommendation adopted, 2016 U.S. Dist. LEXIS 185829, 2016 WL 11586213
 8 (W.D. Tx. May 31, 2016) (concluding that dismissal as frivolous was warranted under §1915(e)(2)(B)(i)
 9 because pro se plaintiffs "Complaint [was] paranoid and delusional . . . [where] [s]he believe[d] that
 10 government agents [were] following her, hacking her computer, spying on her with a camera at her
 11 home, and implanting devices in her body.")

12 Local Rule IA-7-1 states that, "an attorney or pro se party must not send case-related
 13 correspondence, such as letters, emails, or facsimiles, to the court. All communications with the court
 14 must be styled as a motion, stipulation, or notice... The court may strike any case-related
 15 correspondence filed in the court's docket that is not styled as a motion, stipulation, or notice."

16 **b. Plaintiff's "Letter"**

17 Plaintiff did not file a complaint in this case, but he did file a document called a "Letter."
 18 Although I liberally construe plaintiff's letter as his complaint, I warn plaintiff that per Local Rule IA 7-
 19 1, he must not file any more letters on the docket. I screen plaintiff's letter this time as his complaint.
 20

21 I cannot read most of plaintiff's complaint well because he writes in sloppy cursive. I also cannot
 22 comprehend his sentences. For example, the entire first sentence of the letter reads, from what I can tell,
 23 "This is to Witness Arter D. Hoover, as such a medical of prove of the records and condision (sic) as
 24 still in progress as Surgical proceedings still on red tapes for Federal (sic) and States as a CI
 25

1 investigation of the set tapes of satelights (sic) causes and warrants adjudicated of the blood ladders are
2 also causes and the computer mistaken at faults of government of the rights reserved are at the mercy
3 and main frame CIA agents.”

4 I find that plaintiff’s factual allegations, to the extend I can follow them, are frivolous and
5 delusional. Plaintiff appears to recite government conspiracies and/or satellite surveillance perpetrated
6 by the CIA against him. I also warn plaintiff that his actions in this Court might be vexatious, or
7 boarding on vexatious, given that he has filed at least eight other actions that have all been dismissed.²
8 Plaintiff has also failed to plead a short and plain statement of his complaint pursuant to the Federal
9 Rules of Civil Procedure. Even though plaintiff is pro se, he must still follow Federal Rule of Civil
10 Procedure 8(a)(2) and draft a complaint (not a letter) that shows what legal claims he brings against the
11 defendant and showing that he is entitled to relief. While I believe it is unlikely that the plaintiff will be
12 able to state a claim, I will give him an opportunity to amend. I dismiss his complaint without prejudice.
13

14 ACCORDINGLY,

15 I ORDER that Hoover’s application to proceed in forma pauperis (ECF No. 1) is GRANTED.

16 I FURTHER ORDER that Hoover’s complaint (ECF No. 3) is DISMISSED WITHOUT
17 PREJUDICE.

18 I FURTHER ORDER that Hoover has until Wednesday, March 2, 2022, to file an amended
19 complaint addressing the issues discussed above. Failure to timely file an amended complaint that
20 addresses the deficiencies noted in this Order may result in a recommendation for dismissal with
21 prejudice.
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25 ² A district court has the “inherent power to enter pre-filing orders against vexatious litigants.” *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1057 (9th Cir. 2007) (citing 28 U.S.C. § 1651(a)).

1 I FURTHER ORDER that if plaintiff files an amended complaint, the Clerk of the Court is
2 directed NOT to issue summons on the amended complaint. I will issue a screening order on the
3 amended complaint and address the issuance of summons at that time, if applicable. See 28 U.S.C. §
4 1915(e)(2).

5 **NOTICE**

6 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
7 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
8 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
9 may determine that an appeal has been waived due to the failure to file objections within the specified
10 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
11 objections within the specified time and (2) failure to properly address and brief the objectionable issues
12 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
13 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
14 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Pursuant to LR IA 3-1, the plaintiff must immediately file
15 written notification with the court of any change of address. The notification must include proof of
16 service upon each opposing party's attorney, or upon the opposing party if the party is unrepresented by
17 counsel. Failure to comply with this rule may result in dismissal of the action.

18
19 IT IS SO ORDERED.

20 DATED this 31st day of January 2022.

21 
22 CAM FERENBACH
23 UNITED STATES MAGISTRATE JUDGE
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